

***Superseded 5/13/2014***

**17B-1-202 Local district may be created -- Services that may be provided -- Limitations.**

- (1)
- (a) A local district may be created as provided in this part to provide within its boundaries service consisting of:
    - (i) the operation of an airport;
    - (ii) the operation of a cemetery;
    - (iii) fire protection, paramedic, and emergency services, including consolidated 911 and emergency dispatch services;
    - (iv) garbage collection and disposal;
    - (v) health care, including health department or hospital service;
    - (vi) the operation of a library;
    - (vii) abatement or control of mosquitos and other insects;
    - (viii) the operation of parks or recreation facilities or services;
    - (ix) the operation of a sewage system;
    - (x) the construction and maintenance of a right-of-way, including:
      - (A) a curb;
      - (B) a gutter;
      - (C) a sidewalk;
      - (D) a street;
      - (E) a road;
      - (F) a water line;
      - (G) a sewage line;
      - (H) a storm drain;
      - (I) an electricity line;
      - (J) a communications line;
      - (K) a natural gas line; or
      - (L) street lighting;
    - (xi) transportation, including public transit and providing streets and roads;
    - (xii) the operation of a system, or one or more components of a system, for the collection, storage, retention, control, conservation, treatment, supplying, distribution, or reclamation of water, including storm, flood, sewage, irrigation, and culinary water, whether the system is operated on a wholesale or retail level or both;
    - (xiii) in accordance with Subsection (1)(c), the acquisition or assessment of a groundwater right for the development and execution of a groundwater management plan in cooperation with and approved by the state engineer in accordance with Section 73-5-15;
    - (xiv) law enforcement service;
    - (xv) subject to Subsection (1)(b), the underground installation of an electric utility line or the conversion to underground of an existing electric utility line;
    - (xvi) the control or abatement of earth movement or a landslide;
    - (xvii) the operation of animal control services and facilities; or
    - (xviii) an energy efficiency upgrade or a renewable energy system, as defined in Section 11-42-102, in accordance with Title 11, Chapter 42, Assessment Area Act.
  - (b) Each local district that provides the service of the underground installation of an electric utility line or the conversion to underground of an existing electric utility line shall, in installing or converting the line, provide advance notice to and coordinate with the utility that owns the line.

- (c) A groundwater management plan described in Subsection (1)(a)(xiii) may include the banking of groundwater rights by a local district in a critical management area as defined in Section 73-5-15 following the adoption of a groundwater management plan by the state engineer under Section 73-5-15.
  - (i) A local district may manage the groundwater rights it acquires under Subsection 17B-1-103(2)(a) or (b) consistent with the provisions of a groundwater management plan described in this Subsection (1)(c).
  - (ii) A groundwater right held by a local district to satisfy the provisions of a groundwater management plan is not subject to the forfeiture provisions of Section 73-1-4.
  - (iii)
    - (A) A local district may divest itself of a groundwater right subject to a determination that the groundwater right is not required to facilitate the groundwater management plan described in this Subsection (1)(c).
    - (B) The groundwater right described in Subsection (1)(c)(iii)(A) is subject to Section 73-1-4 beginning on the date of divestiture.
  - (iv) Upon a determination by the state engineer that an area is no longer a critical management area as defined in Section 73-5-15, a groundwater right held by the local district is subject to Section 73-1-4.
  - (v) A local district created in accordance with Subsection (1)(a)(xiii) to develop and execute a groundwater management plan may hold or acquire a right to surface waters that are naturally tributary to the groundwater basin subject to the groundwater management plan if the surface waters are appropriated in accordance with Title 73, Water and Irrigation, and used in accordance with Title 73, Chapter 3b, Groundwater Recharge and Recovery Act.
- (2) For purposes of this section:
- (a) "Operation" means all activities involved in providing the indicated service including acquisition and ownership of property reasonably necessary to provide the indicated service and acquisition, construction, and maintenance of facilities and equipment reasonably necessary to provide the indicated service.
  - (b) "System" means the aggregate of interrelated components that combine together to provide the indicated service including, for a sewage system, collection and treatment.
- (3)
- (a) A local district may not be created to provide and may not after its creation provide more than four of the services listed in Subsection (1).
  - (b) Subsection (3)(a) may not be construed to prohibit a local district from providing more than four services if, before April 30, 2007, the local district was authorized to provide those services.
- (4)
- (a) Except as provided in Subsection (4)(b), a local district may not be created to provide and may not after its creation provide to an area the same service already being provided to that area by another political subdivision, unless the other political subdivision gives its written consent.
  - (b) For purposes of Subsection (4)(a), a local district does not provide the same service as another political subdivision if it operates a component of a system that is different from a component operated by another political subdivision but within the same:
    - (i) sewage system; or
    - (ii) water system.
- (5)

- (a) Except for a local district in the creation of which an election is not required under Subsection 17B-1-214(3)(d), the area of a local district may include all or part of the unincorporated area of one or more counties and all or part of one or more municipalities.
- (b) The area of a local district need not be contiguous.
- (6) For a local district created before May 5, 2008, the authority to provide fire protection service also includes the authority to provide:
  - (a) paramedic service; and
  - (b) emergency service, including hazardous materials response service.
- (7) A local district created before May 11, 2010, authorized to provide the construction and maintenance of curb, gutter, or sidewalk may provide a service described in Subsection (1)(a)(x) on or after May 11, 2010.
- (8) A local district created before May 10, 2011, authorized to provide culinary, irrigation, sewage, or storm water services may provide a service described in Subsection (1)(a)(xii) on or after May 10, 2011.
- (9) A local district may not be created under this chapter for two years after the date on which a local district is dissolved as provided in Section 17B-1-217 if the local district proposed for creation:
  - (a) provides the same or a substantially similar service as the dissolved local district; and
  - (b) is located in substantially the same area as the dissolved local district.